

**PUBLIC PROTECTION CABINET**  
**Department of Insurance**  
**Division of Financial Standards and Examinations**  
**(Amended at ARRS Committee)**

**806 KAR 11:020. Multiple employer welfare arrangements.**

RELATES TO: KRS 304.1-050, 304.1-120, 304, 304.2-160, 304.2-165 304.5-040, 304.9-020, 304.9-051, 304.11-030, 304.11-045, 304.17A-005(22), 304.17A-410(7), 304.17A-600, 304.17A-633, 304.17A-802, 304.17A-812, 304.99-020, 29 U.S.C. §1002(40).

STATUTORY AUTHORITY: KRS 304.2-110, 304.4-010

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 authorizes the Commissioner of Insurance to make reasonable administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.4-010 requires the commissioner to established the fees charged by the department and the services for which fees shall be charged by administrative regulation. This administrative regulation requires multiple employer welfare arrangements to provide information to the Commissioner of Insurance so the Commissioner of Insurance can enforce applicable laws. This administrative regulation also identifies the provisions of the Insurance Code that will be applicable to multiple employer welfare arrangements.

**Section 1. Definitions.**

- (1) "Administrator" is defined by KRS 304.9-051(1).
- (2) "Agent" is defined by KRS 304.9-020(1).
- (3) "Commissioner" is defined by KRS 304.1-050(1).
- (4) "Department" is defined by KRS 304.1-050(2).
- (5) "Health benefit plan" is defined by KRS 304.17A-005(22).
- (6) "Health insurance policy" means "health benefit plan" as defined by KRS 304.5-040.
- (7) "Health insurance stop-loss policy" is defined by KRS 304.17A-410(7).
- (8) "MEWA" or "multiple employer welfare arrangement":
  - (a) Is defined by 29 U.S.C. 1002(40); and
  - (b) Does not mean an arrangement under which health care benefits are fully insured by an insurer authorized to do business in Kentucky.
- (9) "Person" is defined by KRS 304.1-020.
- (10) "Private review agent" is defined by KRS 304.17A-600(11).

**Section 2.**

- (1) A MEWA seeking initial registration shall file with the commissioner an Application for a Certificate of Registration of a Multiple Employer Welfare Arrangement (MEWA) and obtain registration approval from the commissioner pursuant to Section 4 of this administrative regulation.
- (2) A MEWA shall submit an application fee of \$500 with the application.
- (3) The application shall include the information required in Section 3 of this administrative regulation.

**Section 3. Written Information to be Filed with the Commissioner .** The information required to be filed in writing with the commissioner in support of an application for a certificate of registration pursuant to Section 2 of this administrative regulation shall include:

- (1) The employer identification number assigned by the Internal Revenue Service to the MEWA;
- (2) A copy of any trust document used by the MEWA;
- (3) A copy of any health benefits or life benefits plan documents;

- (4) A copy of the most recent Form 5500 and M-1 filing made by the MEWA to the United States Department of Labor;
- (5) A copy of any audits conducted with respect to the MEWA;
- (6) A copy of any actuarial reports prepared for the MEWA;
- (7) A copy of any summary annual reports published for participants in the MEWA;
- (8) A copy of any contracts with agents or administrators;
- (9) The names of insurers and policy numbers for bonds covering fiduciaries of the MEWA;
- (10) A copy of any stop-loss, excess, or reinsurance policies held by the MEWA;
- (11) The AM Best rating of the stop-loss insurer issuing a policy to the MEWA;
- (12) A list of all Kentucky employers participating in the MEWA, including full mailing addresses;
- (13) A list of the names, addresses, official positions, and biographical information of all officers and trustees of the MEWA;
- (14) A copy of any marketing materials and rate manuals; and
- (15) The total number of employees, dependents, and beneficiaries participating in the MEWA.

#### Section 4. Issuance of Certificate of Registration.

(1) Upon receipt of an application for a certificate of registration submitted in accordance with Section 2 of this administrative regulation and the written information submitted in accordance with Section 3 of this administrative regulation, the commissioner shall issue or deny the application. A certificate of registration shall be issued only if the commissioner finds the following conditions are met:

(a) The persons responsible for the conduct of the affairs of the MEWA shall be competent, trustworthy, and possess good reputations; and

(b) The MEWA shall be financially responsible and reasonably expected to meet its obligations to participants and prospective participants. In making this determination the commissioner shall consider:

1. The adequacy of working capital;

2. Any agreement with an insurer, a government, or any other organization for insuring the payment of health claims or the provisions for automatic applicability of an alternative coverage in the event of discontinuance of the coverage offered through the MEWA; and

3. Compliance with KRS 304.17A-812 as a guarantee that the financial solvency obligations of the MEWA shall be met.

(2) A MEWA subject to the jurisdiction of the department shall comply with any applicable requirements of KRS Chapter 304, including KRS 304.17A-600 through 304.17A-633. A MEWA that is issued a certificate of registration shall comply with the requirements as established in KRS 304.17A-600 through 304.17A-633. A MEWA may contract with a registered private review agent that is licensed in Kentucky to fulfill these requirements.

(3) A MEWA that is issued a certificate of registration shall be subject to the commissioner's authority to investigate complaints pursuant to KRS 304.2-160 and 304.2-165.

#### Section 5. Renewal of Certificate of Registration.

(1) A MEWA shall annually renew a certificate of registration by submitting:

(a) The application required by Section 2 of this administrative regulation;

(b) The information required by Section 3 of this administrative regulation.

(2) The information required by subsection (1) of this section shall be submitted to the department no later than March 1 of each year.

Section 6. Penalties and Liability. A person who violates Section 2 of this administrative regulation shall incur a civil penalty of \$1,000 for each violation.

Section 7. Exemptions. The provisions of this administrative regulation shall not apply to a self-insured employer organized association group as defined by KRS 304.17A-802(10).

Section 8. Incorporated by Reference.

(1) The following material is incorporated by reference:

(a) Application for a Certification of Registration of a MEWA (CoR MEWA Form), 7/2021;

(b) United States Department of Labor Form 5500, 2020;

(c) United States Department of Labor Form M-1, 2020; and

(d) Kentucky Designation of Person to Receive Legal Process (Form 800), 1/2011.

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(17 Ky.R. 2311; eff. 3-13-1991; TAm eff. 8-9-2007; Crt eff. 2-26-2020; 48 Ky.R. 602, 1759; eff. 3-1-2022.)

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